



Proposed Regulation Agency Background Document

Approving authority name	State Air Pollution Control Board
Primary action	9 VAC 5-45
Secondary action(s)	None
Regulation title	Consumer and Commercial Products
Action title	Consumer and Commercial Products (Rev. D06)
Date this document prepared	November 4, 2008

This information is required for executive review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act, Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed substantive amendments to the existing regulation, or the regulation proposed to be repealed. If applicable, generally describe the existing regulation.

A new chapter (9 VAC 5-45) is established for the control of volatile organic compound (VOC) emissions from various consumer and commercial products in the Northern Virginia and Fredericksburg VOC Emissions Control Areas. The new chapter consists of two parts. The first part of the new chapter contains general requirements pertaining to all of the types of consumer and commercial products regulated. The second part is composed of articles that contain VOC content and emission standards for individual types of consumer products and contain the control technology, testing, monitoring, administrative, recordkeeping and reporting requirements necessary to determine compliance with each of the applicable standards.

The new chapter includes two articles that control VOC emissions from portable fuel containers and spouts. These articles implement design, performance, and labeling standards for portable fuel container products before and after January 1, 2009 and prohibit owners from manufacturing, distributing, and selling noncompliant products.

The new chapter includes two articles that control VOC emissions from certain types of consumer products. These articles implement VOC content standards for some individual product categories before and after January 1, 2009 and prohibit owners from manufacturing, distributing, advertising or selling noncompliant products.

The new chapter includes an article for the control of VOC emissions from architectural and industrial maintenance coatings which implements VOC content standards for all such coating products and prohibits owners from manufacturing, distributing, selling and using noncompliant products.

The new chapter includes an article that controls VOC emissions from adhesives, adhesive primers, sealants and sealant primers which implements VOC content limits for those products and prohibits owners from manufacturing, distributing, selling or applying noncompliant products.

Finally, the new chapter includes an article that controls VOC emissions from asphalt paving operations, which prescribes the use of emulsified asphalt coatings except for the purpose of coating residential driveways and prohibits the mixing, storage and application of noncompliant products.

Legal basis

Please identify the section number and provide a brief statement relating the content of the statutory authority to the specific regulation proposed. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that the State Air Pollution Control Board possesses the statutory authority to promulgate the proposed regulation amendments is available upon request.

Purpose

Please provide a statement explaining the rationale or justification of the proposal as it relates to the health, safety or welfare of citizens.

The purpose of these regulations is to require owners to limit emissions of air pollution from portable fuel containers, certain consumer products, architectural and industrial maintenance coatings and paving operations to the level necessary for (i) the protection of public health and welfare, and (ii) the attainment and maintenance of the air quality standards. The proposed amendments are being made to adopt new and revised standards for the control of VOC emissions from adhesive and sealants, portable fuel containers, and certain consumer products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas. This action is being taken to allow Virginia to meet its obligation to implement control measures in areas designated as nonattainment under the 8-hour ozone standard and to implement contingency measures within former nonattainment areas that have been redesignated as ozone maintenance areas.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The proposed regulatory action adds a new chapter (9 VAC 5-45) specifically for regulations pertaining to consumer and commercial products and is applicable to specific product types and the owners that are involved in the manufacture, distribution, retail sales and in some cases, the marketing and use of those products. In Part I of the new chapter, special provisions specify the general testing, monitoring, compliance, notification, recordkeeping and reporting requirements that are applicable to all articles in the new chapter and specify certain other sections of the regulations that are not generally applicable. Exceptions to the special provisions are addressed in each individual article of the new chapter.

In Part II of the new Chapter 45:

1. The proposed regulatory action establishes standards for Portable Fuel Containers for products manufactured before and after January 1, 2009 as new Articles 1 and 2 in Chapter 45, respectively, and applies to all of the products subject to the current provisions of Chapter 40, Article 42 Portable Fuel

Container Spillage. Article 1 clarifies some Article 42 exemptions and definitions, adds another exemption category, removes obsolete standards and their associated administrative requirements, and provides criteria for sell-through of products. Because Article 1 applies to all products manufactured before January 1, 2009 and is designed to replace Chapter 40, Article 42, the compliance schedule proposed for Article 1 is the same as that in Chapter 40, Article 42. Article 2 applies to all portable fuel container products manufactured on or after January 1, 2009 and requires board pre-certification of new portable fuel container products as compliant with new labeling requirements and with new and more stringent design and performance standards. Article 2 also includes applicability to a new category of owner, and adds (i) new and revised exemptions, (ii) new certification procedures, (iii) new testing standards, and (iv) alternative compliance provisions for innovative products over those provisions now applicable under Chapter 40, Article 42. The new Article 2 specifies a compliance deadline no later than January 1, 2009. Chapter 40, Article 42 will be repealed at an appropriate time after the standards in the new Articles 1 and 2 are effective.

2. The proposed regulatory action establishes standards Consumer Products for products manufactured before and after January 1, 2009 as a new Articles 3 and 4 in Chapter 45, respectively and applies to all of the products subject to the current provisions of Chapter 40, Article 50 Consumer Products. Article 3 pertains to consumer products manufactured before January 1, 2009, clarifies some definitions and standards, makes the Alternative Control Plan procedures more flexible, revises labeling, reporting and other administrative requirements, and clarifies sell-through criteria. Because Article 3 applies to all products manufactured before January 1, 2009 and is designed to replace Chapter 40, Article 50, the compliance schedule proposed for Article 3 is the same as Chapter 40, Article 50. Article 4 applies to all consumer products manufactured after January 1, 2009 and includes all of the changes made in Article 3, adds more definitions and standards for some new product categories and establishes new labeling and other administrative requirements. Article 4 specifies a compliance deadline no later than January 1, 2009. Chapter 40, Article 50 will be repealed at an appropriate time after the standards in the new Articles 3 and 4 are effective.

3. The proposed regulatory action establishes standards for Architectural and Industrial Maintenance Coatings and incorporates all of the provisions of Chapter 40, Article 49 Emission Standards for Architectural and Industrial Maintenance Coatings into a new Article 5 in Chapter 45, except that the new Article 5 removes some obsolete reporting requirements and changes the remaining one to a recordkeeping requirement. Because the standards and other provisions of the new Article 5 are not substantively changed from what is in Chapter 40, Article 49, no new compliance dates are proposed. Chapter 40, Article 49 will be repealed at an appropriate time after the new Article 5 standards are effective.

4. The proposed regulatory action will add a new regulation, Article 6 in the new chapter 45 that establishes new emission standards for Adhesives and Sealants. The provisions of this article apply to owners who sell, supply, offer for sale or manufacture for sale commercial adhesives, sealants, adhesive primers or sealant primers that contain volatile organic compounds within the Northern Virginia and Fredericksburg VOC Emissions Control Areas. The provisions will also apply to owners that use, apply for compensation or solicit the use or application of such products in those areas. Exempted from the regulation is any such product manufactured in the Northern Virginia or Fredericksburg VOC Emissions Control Areas for shipment and use outside of these areas. The provisions of this regulation will not apply to a manufacturer or distributor who sells, supplies, or offers for sale such products that do not comply with the VOC standards as long as the manufacturer or distributor can demonstrate both that the product is intended for shipment and use outside of those areas and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the product is not distributed in those areas. A number of product-specific exemptions are also allowed. VOC content limits are specified for different product categories. Control technology guidelines are offered as an alternate means of achieving compliance with the standards. Test methods, registration requirements and recordkeeping procedures are provided. This article specifies a compliance deadline of January 1, 2009.

5. The proposed regulatory action establishes standards for asphalt paving operations and incorporates all of the provisions of Chapter 40, Article 39 Emission Standards for Asphalt Paving Operations as a new

Article 7 in Chapter 45. Applicability provisions in Article 7 apply to owners instead of sources and a new definition of paving operations is added that clarifies the types of operations to which the provisions of the regulation apply. Since the standards and other provisions in this article are not substantively changed, no new compliance date is proposed. Chapter 40, Article 39 will be repealed at an appropriate time after the new Article 7 standards are effective.

Issues

Please identify the issues associated with the proposed regulatory action, including: (1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; (2) the primary advantages and disadvantages to the agency or the Commonwealth; and (3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

1. Public: The primary advantage to the public is that the adoption of these regulations will significantly decrease emissions of VOCs in the Northern Virginia and Fredericksburg areas, thus benefiting public health and welfare. There are no disadvantages to the public.

2. Regulated Community: The primary advantage to the regulated community is that the new regulations are clearer and have fewer reporting requirements than some of the regulations they replace. The primary disadvantages are that there may be fewer days that certain products may be applied, and there may be a need for worker training for some users to learn how to apply some of the compliant products correctly.

3. Department: The primary advantages to the department are that the adoption of these regulations will allow Virginia (1) to attain and maintain air quality standards and improve public health of Virginians, and (2) to uphold its promise to its jurisdictional neighbors (Maryland and Washington, D.C.) to all take similar regulatory action in order to minimize regulatory differences across the affected borders. The primary disadvantage to the department is increased compliance cost to administer the new regulations.

Localities particularly affected

Please identify any locality particularly affected by the proposal. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The localities particularly affected by the proposed regulations are the counties of Arlington, Fairfax, Loudoun, Prince William, Stafford and Spotsylvania; and the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park and Fredericksburg.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on (i) the costs and benefits of the proposal, (ii) effects of the proposal on farm and forest land preservation, and (iii) impacts of the proposal on small businesses. Also indicate whether a public hearing is to be held to receive comments on the proposal. If a public hearing is to be held, indicate that

the date, time and place of the hearing may be found in the calendar of events section of the Virginia Register of Regulations.

In addition to any other comments, the Department is seeking comments on (i) the costs and benefits of the proposal, (ii) the potential impacts of the proposal on the regulated community, (iii) the effects of the proposal on farm and forest land preservation, and (iv) the impacts of the proposal on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (1) projected reporting, recordkeeping and other administrative costs, (2) probable effect of the proposal on affected small businesses, and (3) description of less intrusive or costly alternative methods of achieving the purpose of the proposal.

The Department accepts written comments by e-mail, facsimile transmission and postal mail. In order to be considered, written comments must include the full name, address and telephone number of the person commenting and be received by the Department by 5:00 p.m. on the last day of the comment period. Due to problems with the quality of facsimile transmissions, commenters are encouraged to provide the signed original by postal mail within one week. Both oral and written comments are accepted at the public hearing. The Department prefers that comments be provided in writing, along with any supporting documents or exhibits. All testimony, exhibits and documents received are part of the public record.

All comments requested by this document must be submitted to the agency contact: Gary Graham, Regulatory Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia, 23218 (e-mail: gegraham@deq.virginia.gov) (fax number: 804-698-4510). Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: www.townhall.virginia.gov. Requests for documents and additional information may also be submitted to the agency contact.

A public hearing will be held and the notice of the public hearing, along with the comment period closing date, will appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposal and at a minimum provide the information specified below. Also include a description of the beneficial impact the proposal is designed to produce.

<p>a. Description of the individuals, businesses or other entities likely to be affected by the regulation.</p>	<p>The Virginia entities most likely to be affected by this rulemaking are the manufacturers who produce consumer products, portable fuel containers, and adhesives and sealants. Retailers in Northern Virginia and Fredericksburg may be affected. Users of adhesives and sealants in Northern Virginia and Fredericksburg may also be affected.</p>
<p>b. Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The number of entities in Northern Virginia and Fredericksburg likely to be affected by this rulemaking is as follows:</p> <ol style="list-style-type: none"> 1. Portable Fuel Containers: No small businesses are likely to be affected. 2. Consumer Products: 476 manufacturers, distributors or retailers may be affected. 3. Architectural and Industrial Coatings: 1

	<p>manufacturer may be affected.</p> <p>4. Adhesives and Sealants: 2500 manufacturers and contractors may be affected.</p> <p>5. Asphalt Paving: 78 contractors may be minimally affected.</p> <p>(Data from Virginia Employment Commission database analysis dated April 21, 2008.) Most, if not all, of the affected facilities are likely to be small businesses.</p>
<p>c. Projected cost of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>The following costs are projected for all regulated entities in the Northern Virginia and Fredericksburg VOC Emissions Control Areas for implementation and compliance and include projected reporting, recordkeeping and other administrative costs.</p> <ol style="list-style-type: none"> 1. Portable Fuel Containers: Insignificant cost to Virginia small businesses or individuals. 2. Consumer Products: \$6,500,000 per year cost likely to be passed on to consumers. 3. Architectural and Industrial Coatings: \$3,200 savings annually per reporting facility. 4. Adhesives and Sealants: \$1,200,000 per year cost shared between manufacturers, distributors, and contractors. 5. Asphalt Paving: No cost or savings to Virginia small businesses.
<p>d. Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>It is not expected that the regulation will result in any cost to the Department beyond that currently in the budget. The sources of Department funds to carry out this regulation are the general fund and the federal trust (grant money provided by the U.S. Environmental Protection Agency under Section 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the Air Quality Stationary Source Compliance Inspections program (5122100). The costs are expected to be ongoing.</p>
<p>e. Projected cost of the regulation on localities.</p>	<p>The projected cost of the regulation on localities is not expected to be beyond that of other affected entities and are addressed in item c above.</p>
<p>f. Beneficial impact the regulation is designed to produce.</p>	<p>The adoption of this regulation will decrease emissions of VOC in the Northern Virginia and Fredericksburg areas by an estimated total of 8.3 tons per day or more. This significant emissions reduction will benefit public health and welfare. It will also allow Virginia to avoid federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act and to uphold its promise to its jurisdictional neighbors (Maryland and Washington, D.C.) to take this action.</p>

Legal requirements

Please identify the state and/or federal source of the legal requirements that necessitate promulgation of the proposal, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal requirements and the extent to which the requirements are mandatory or discretionary.

Promulgating Entity

The promulgating entity for this regulation is the State Air Pollution Control Board.

Identification of Specific Applicable Federal Requirements

Ozone is formed by complex series of reactions between nitrogen oxides (NO_x) and volatile organic compounds (VOCs) under the influence of solar ultraviolet radiation (sunlight). Ozone shows a very strong diurnal (daily) and seasonal (April to October) cyclical character. Ozone injures vegetation, has adverse effects on materials (rubber and fabrics), and is a pulmonary irritant that affects respiratory mucous membranes, lung tissues, and respiratory functions.

The original ozone air quality standard that was the focus of air quality planning requirements after the promulgation of the 1990 Amendments to the Clean Air Act was a 1-hour standard. Since then, EPA has promulgated a new 8-hour ozone air quality standard, and associated designation of nonattainment areas, which necessitates the initiation of new plans and regulatory actions.

40 CFR Part 81 specifies the designations of areas made under § 107(d) of the CAA and the associated nonattainment classification (if any) under § 181 of the CAA or 40 CFR 51.903(a), as applicable. On April 30, 2004 (69 FR 23858), EPA published its final decision as to the 8-hour nonattainment areas and associated classifications. The new designations are effective June 15, 2004. The Commonwealth of Virginia designations are in 40 CFR 81.347.

40 CFR Part 51, Subpart X, contains the provisions for the implementation of the 8-hour ozone NAAQS, along with the associated planning requirements. On April 30, 2004 (69 FR 23951), EPA published phase 1 of its final rule adding Subpart X to 40 CFR Part 51. Specifically, 40 CFR 51.903(a) sets forth the classification criteria and nonattainment dates for 8-hour ozone nonattainment areas once they are designated as such under 40 CFR Part 81. The remainder of the planning requirements (phase 2) were published on November 29, 2005 (70 FR 71612).

The state regulations established VOC and NO_x emissions control areas to provide the legal mechanism to define the geographic areas in which Virginia implements control measures to attain and maintain the air quality standards for ozone. The emissions control areas may or may not coincide with the nonattainment areas, depending on the necessity of the planning requirements.

General Federal Requirements

Sections 109 (a) and (b) of the Clean Air Act (CAA) require EPA to prescribe primary and secondary air quality standards to protect public health and welfare, respectively, for each air pollutant for which air quality criteria were issued before the enactment of the 1970 Clean Air Act. These standards are known as the National Ambient Air Quality Standards (NAAQS). Section 109 (c) requires the U.S. Environmental Protection Agency (EPA) to prescribe such standards simultaneously with the issuance of new air quality criteria for any additional air pollutant. The primary and secondary air quality criteria are authorized for promulgation under § 108.

Once the NAAQS are promulgated pursuant to § 109, § 107(d) sets out a process for designating those areas that are in compliance with the standards (attainment or unclassifiable) and those that are not (nonattainment). Governors provide the initial recommendations but EPA makes the final decision.

Section 107(d) also sets forth the process for redesignations once the nonattainment areas are in compliance with the applicable NAAQS.

Section 110(a) of the CAA mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

(1) establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;

(2) establish schedules for compliance;

(3) prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and

(4) require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

40 CFR Part 50 specifies the NAAQS: sulfur dioxide, particulate matter, carbon monoxide, ozone (its precursors are nitrogen oxides and volatile organic compounds), nitrogen dioxide, and lead.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and record-keeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans.

Section 51.230 under Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

(1) adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;

(2) enforce applicable laws, regulations, and standards, and seek injunctive relief;

(3) abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;

(4) prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;

(5) obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require record-keeping and to make inspections and conduct tests of air pollution sources;

(6) require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

(7) make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 under Subpart L requires the identification of legal authority as follows:

(1) the provisions of law or regulation which the state determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

(2) the plan must show that the legal authorities specified in this subpart are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

Part D describes how nonattainment areas are established, classified, and required to meet attainment. Subpart 1 provides the overall framework of what nonattainment plans are to contain, while Subpart 2 provides more detail on what is required of areas designated nonattainment for ozone.

Section 171 defines "reasonable further progress," "nonattainment area," "lowest achievable emission rate," and "modification."

Section 172(a) authorizes EPA to classify nonattainment areas for the purpose of assigning attainment dates. Section 172(b) authorizes EPA to establish schedules for the submission of plans designed to achieve attainment by the specified dates. Section 172(c) specifies the provisions to be included in each attainment plan, as follows:

(1) the implementation of all reasonably available control measures as expeditiously as practicable and shall provide for the attainment of the national ambient air quality standards;

(2) the requirement of reasonable further progress;

(3) a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutants in the nonattainment area;

(4) an identification and quantification of allowable emissions from the construction and modification of new and modified major stationary sources in the nonattainment area;

(5) the requirement for permits for the construction and operations of new and modified major stationary sources in the nonattainment area;

(6) the inclusion of enforceable emission limitations and such other control measures (including economic incentives such as fees, marketable permits, and auctions of emission rights) as well as schedules for compliance;

(7) if applicable, the proposal of equivalent modeling, emission inventory, or planning procedures; and

(8) the inclusion of specific contingency measures to be undertaken if the nonattainment area fails to make reasonable further progress or to attain the national ambient air quality standards by the attainment date.

Section 172(d) requires that attainment plans be revised if EPA finds inadequacies. Section 172(e) authorizes the issuance of requirements for nonattainment areas in the event of a relaxation of any national ambient air quality standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to these same areas before such relaxation.

Section 107(d)(3)(D) provides that a state may petition EPA to redesignate a nonattainment area as attainment and EPA may approve the redesignation subject to certain criteria being met. Section 107(d)(3)(E) stipulates one of these criteria, that EPA must fully approve a maintenance plan that meets the requirements of § 175A.

According to § 175A(a), the maintenance plan must be part of a SIP submission, and must provide for maintenance of the NAAQS for at least 10 years after the redesignation. The plan must contain any additional measures, as needed, to ensure maintenance. Section 175A(b) further requires that 8 years after redesignation, a maintenance plan for the next 10 years must then be submitted. As stated in § 175A(c), nonattainment requirements continue to apply until the SIP submittal is approved. Finally, § 175A(d) requires that the maintenance plan contain contingency provisions which will be implemented should the area fail to maintain the NAAQS as provided for in the original plan.

Under Part D, Subpart 2, § 181 sets forth the classifications and nonattainment dates for 1-hour ozone nonattainment areas once they are designated as such under § 107(d).

Section 182(a)(2)(A) requires that the existing regulatory program requiring reasonably available control technology (RACT) for stationary sources of volatile organic compounds (VOCs) in marginal nonattainment areas be corrected by May 15, 1991, to meet the minimum requirements in existence prior to the enactment of the 1990 amendments. RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. EPA has published control technology guidelines (CTGs) for various types of sources, thereby defining the minimum acceptable control measure or RACT for a particular source type.

Section 182(b) requires stationary sources in moderate nonattainment areas to comply with the requirements for sources in marginal nonattainment areas. The additional, more comprehensive control measures in §182(b)(2)(A) require that each category of VOC sources employ RACT if the source is covered by a CTG document issued between enactment of the 1990 amendments and the attainment date for the nonattainment area. Section 182(b)(2)(B) requires that existing stationary sources emitting VOCs for which a CTG existed prior to adoption of the 1990 amendments also employ RACT.

Section 182(c) requires stationary sources in serious nonattainment areas to comply with the requirements for sources in both marginal and moderate nonattainment areas.

Section 182(d) requires stationary sources in severe nonattainment areas to comply with the requirements for sources in marginal, moderate and serious nonattainment areas.

Section 182(f) extends the requirements for the control of VOC emissions to emissions of NOx.

Section 184 establishes an Ozone Transport Region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia. The Ozone Transport Commission is to assess the degree of interstate transport of the pollutant or precursors to the pollutant throughout the transport region, assess strategies for mitigating the interstate pollution, and to recommend control measures to ensure that the plans for the relevant States meet the requirements of the Act.

40 CFR Part 81 specifies the designations of areas made under § 107(d) of the CAA and the associated nonattainment classification (if any) under § 181 of the CAA or 40 CFR 51.903(a), as applicable.

EPA has issued detailed guidance that sets out its preliminary views on the implementation of the air quality planning requirements applicable to nonattainment areas. This guidance is titled the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (or "General Preamble"). See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The General Preamble has been supplemented with further guidance on Title I requirements. See 57 FR 55621 (Nov. 25, 1992) (guidance on NOx RACT requirements in ozone nonattainment areas). For this subject, the guidance provides little more than a summary and reiteration of the provisions of the Act.

On June 21, 2001, EPA issued formal guidelines for the "Ozone Flex Program." These guidelines set out eligibility requirements, what measures may be taken and how, and how localities, states and EPA are to develop and implement early reduction plans. On November 14, 2002, EPA issued a schedule for 8-hour ozone designations and its effect on early action compacts for potential 8-hour nonattainment areas.

40 CFR Part 51, Subpart X, contains the provisions for the implementation of the 8-hour ozone NAAQS, along with the associated planning requirements. Specifically, 40 CFR 51.903(a) sets forth the classification criteria and nonattainment dates for 8-hour ozone nonattainment areas once they are designated as such under 40 CFR Part 81.

State Requirements

These specific amendments are not required by state mandate. Rather, Virginia's Air Pollution Control Law gives the State Air Pollution Control Board the discretionary authority to promulgate regulations "abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth" (§ 10.1-1308 A). The law defines such air pollution as "the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people or life or property" (§ 10.1-1300).

The Air Pollution Control Law (§ 10.1-1308 B) specifically requires that any regulation that prohibits the selling of a consumer product not restrict the continued sale of the product by retailers of any existing inventories in stock at the time the regulation is promulgated.

Comparison with federal requirements

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed regulation amendments are not more restrictive than the applicable legal requirements.

Need

Please explain the need for the new or amended regulation and the potential consequences that may result in the absence of the regulation. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal, the environmental benefits of the proposal, and the problems the proposal is intended to solve.

Identification of Specific Planning Requirements Establishing the Need

Ozone is formed by complex series of reactions between nitrogen oxides (NO_x) and volatile organic compounds (VOCs) under the influence of solar ultraviolet radiation (sunlight). Ozone shows a very strong diurnal (daily) and seasonal (April to October) cyclical character. Ozone injures vegetation, has adverse effects on materials (rubber and fabrics), and is a pulmonary irritant that affects respiratory mucous membranes, lung tissues, and respiratory functions.

The original ozone air quality standard that was the focus of air quality planning requirements after the promulgation of the 1990 Amendments to the Clean Air Act was a 1-hour standard. Since then, EPA has promulgated a new 8-hour ozone air quality standard. Air quality planning efforts to address compliance with the new 8-hour standard are in the early stages. On April 15, 2004, EPA promulgated its decision as to the 8-hour nonattainment areas and Phase 1 of the planning requirements. Phase 2 planning requirements were promulgated by EPA on November 19, 2005. The state regulations established VOC and NO_x emissions control areas to provide the legal mechanism to define the geographic areas in which Virginia implements control measures to attain and maintain the air quality standards for ozone. The emissions control areas may or may not coincide with the nonattainment areas, depending on the necessity of the planning requirements.

Three areas of Virginia were originally established as VOC and NO_x emissions control areas: Northern Virginia, Hampton Roads, and Richmond. These three VOC and NO_x emissions control areas were established in order to implement control measures to attain the 1-hour ozone air quality standard. These three areas were also designated as nonattainment areas under the 8-hr ozone standard, thus all three areas remained VOC emissions control areas in order to implement the control and contingency measures necessary to attain the 8-hour ozone standard.

There were three other areas that did not meet the 8-hour ozone standard when it was promulgated: the Frederick County area, the Fredericksburg area, and the Roanoke area. A new VOC and NO_x emissions control area was established to include the Frederick and Roanoke areas: the Western Virginia Area. This area had been designated nonattainment for the 8-hour ozone standard but was added to the list of VOC and NO_x emissions control areas prior to EPA's final decision regarding the 8-hour nonattainment areas. This was done so the affected localities could participate in EPA's Early Action Compact program. Another VOC and NO_x emissions control area was established corresponding to the Fredericksburg Area.

Because ozone formation occurs primarily in the atmosphere in the presence of sunlight and precursor pollutants (as opposed to forming as a result of a manufacturing process or forming during combustion), it continues to form in the air over time. As the air mass moves regionally, the ozone moves with it and so does the potential for more ozone formation. In order to control ozone as a regional problem in the northeastern United States, the Clean Air Act created the Ozone Transport Commission (OTC) to recommend ozone control strategies to states in the ozone transport region. The areas in Virginia that are in the ozone transport region correspond to those areas in the Northern Virginia VOC Emissions Control Area. The OTC identified the most cost-effective strategies and, on June 7, 2006, Virginia committed to pursue rule-making for three of the consumer and commercial products strategies consistent with model rules developed by the OTC, to be effective in the Northern Virginia VOC Emissions Control Area on January 1, 2009 or as soon as possible thereafter.

The Northern Virginia VOC and NO_x Emissions Control Area currently consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The Richmond VOC and NO_x Emissions Control Area currently consists of the counties of Charles City, Chesterfield, Hanover, Henrico and Prince George; and the cities of Colonial Heights, Hopewell, Richmond and Petersburg.. The Hampton Roads VOC and NO_x Emissions Control Area currently consists of the counties of James City, York, Isle of Wight and Gloucester; and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach,

and Williamsburg. The Western Virginia VOC and NO_x Emissions Control Area includes the counties of Botetourt, Frederick and Roanoke; and the cities of Roanoke, Salem, and Winchester. The Fredericksburg VOC and NO_x Emissions Control Area includes Spotsylvania County and Fredericksburg City.

The new and revised standards are therefore necessary to implement sufficient control and contingency measures in the Northern Virginia VOC Emissions Control Area to demonstrate that the Northern Virginia Nonattainment Area is capable of meeting its goal of attainment by June 15, 2010. These new and revised regulations will also be implemented in the Fredericksburg Maintenance Area in order to provide the most cost-effective additional VOC contingency measures for the Fredericksburg Maintenance Area. This regulatory action is thus essential to protect the health, safety, and welfare of citizens.

General Planning Requirements

Among the primary goals of the federal Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, that shows how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the SIP must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance).

A SIP is the key to the state's air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards--that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry. Generally, the plan is revised, as needed, based upon changes in the federal Clean Air Act and associated EPA regulations and policies.

The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations and include the following: emission limits, control technology requirements, preconstruction permit programs for new industry and expansions, and source-specific control requirements. Stationary source control measures also include area source control measures which are directed at small businesses and consumer activities. Mobile source control measures are directed at tailpipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering programs, and inspection and maintenance programs. Transportation source control measures limit the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

Federal guidance on states' approaches to the inclusion of control measures in the SIP has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. Many regulatory requirements were adopted in the 1970s when no detailed guidance existed. The legally binding federal mandate for these regulations is general, not specific, consisting of the Clean Air Act's broad-based directive to states to attain and maintain the air quality standards. However, in recent years, the Clean Air Act, along with EPA regulations and policy, has become much more specific, thereby removing much of the states' discretion to craft their own air quality control programs.

Generally, a SIP is revised, as needed, based upon changes in air quality or statutory requirements. For the most part the SIP has worked, and the standards have been attained for most pollutants in most areas. However, attainment of NAAQS for one pollutant--ozone--has proven problematic. While ozone is needed at the earth's outer atmospheric layer to shield out harmful rays from the sun, excess concentrations at the surface have an adverse effect on human health and welfare. Ozone is formed by a chemical reaction between volatile organic compounds (VOCs), nitrogen oxides (NOx), and sunlight. When VOC and NOx emissions from mobile sources and stationary sources are reduced, ozone is reduced.

Congress enacted the 1977 Amendments to the Clean Air Act in order to address unsuccessful SIPs and areas that had not attained the NAAQS (that is, nonattainment areas). Although SIP revisions submitted pursuant to the requirements of the 1977 amendments did achieve some progress in eliminating nonattainment areas, some areas remained.

In 1990 Congress once again enacted comprehensive amendments to the Act to address SIP requirements for nonattainment areas. The new Act established a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of their class. In addition to the general SIP-related sanctions, nonattainment areas have their own unique sanctions. If a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent air pollution control requirements. The Clean Air Act includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

The new Act required EPA, based on the air quality data from each state, to propose geographic boundaries and pollution classification levels for all nonattainment areas to each state's governor. If states disagreed with EPA's proposals, they had the opportunity to propose different boundaries; however, EPA had the authority to make the final decision.

The original ozone air quality standard that was the focus of air quality planning requirements after the promulgation of the 1990 Amendments to the Clean Air Act was a 1-hour standard (0.12 ppm). Since then, EPA promulgated first a new 8-hour ozone air quality standard of 0.08 ppm and then a new 8-hour ozone air quality standard of 0.075 ppm. Air quality planning efforts to address compliance with the 0.08 ppm 8-hour standard are continuing. On April 15, 2004, EPA promulgated its decision as to the 8-hour nonattainment areas and some of the planning requirements. Northern Virginia and Richmond were designated as moderate nonattainment areas, and Hampton Roads was designated as a marginal nonattainment area. On September 22, 2004 EPA redesignated Richmond as a marginal nonattainment area effective November 22, 2004. EPA promulgated the remainder of the air quality planning requirements on November 19, 2005, so that states could begin to develop their implementation plans. Promulgation of the 8-hour nonattainment areas resulted in some additional areas (with classifications) as follows: Frederick County Nonattainment Area, Fredericksburg Nonattainment Area, and Roanoke Nonattainment Area. The Frederick County Nonattainment Area and Roanoke Nonattainment Area were classified as basic areas and the effective date of the nonattainment designation was delayed because

the affected localities volunteered to participate in the Early Action Compact program (see below). The Fredericksburg Nonattainment Area was classified moderate. On December 23, 2005, the Fredericksburg Nonattainment Area was redesignated as attainment.

EPA has established the Early Action Compact program to allow areas that may potentially become designated nonattainment under the 8-hour ozone standard to voluntarily adopt local emission control programs to avoid air quality violations and the potential of mandated controls. By avoiding the nonattainment designation, these areas will avoid new source review for major sources, including the requirement to make offsets, and conformity review. These areas will also experience a reduction in ozone air pollution, and thus experience improved public health and welfare. On April 30, 2004, EPA designated the Frederick County and Roanoke Nonattainment Areas as Early Action Compact areas and deferred nonattainment requirements (such as nonattainment new source review) within those areas. Frederick County and Roanoke were collectively designated as the Western Emissions Control Area in order to implement the Early Action Compact plan control and contingency requirements there.

Once the nonattainment areas are defined, each state is then obligated to submit a SIP demonstrating how it will attain the air quality standards in each nonattainment area. First, the Act requires that certain specific control measures and other requirements be adopted and included in the SIP; a list of those that necessitates the adoption or modification of state regulations is provided below. In addition for moderate nonattainment areas, the state has to demonstrate that it would achieve a VOC emission reduction of 15% within 6 years of the base year. Finally for serious nonattainment areas, the SIP has to include an attainment demonstration by photochemical modeling (including annual emission reductions of 3% for years 7 to 9 beyond the base year) in addition to the 15% emission reduction demonstration. In cases where the specific control measures shown below are inadequate to achieve the emission reductions or attain the air quality standard, the state is obligated to adopt other control measures as necessary to achieve this end.

ALL AREAS

- correct existing VOC regulatory program (controls on certain sources identified in EPA control technology guidelines)
- requirement for annual statements of emissions from industries
- preconstruction review (permit) program for new industry and expansions (with variable major source definition, variable offset ratio for addition of new pollution, and special requirements for expansions to existing industry in serious areas)
- offset ratio for addition of new pollution of 1.1 to 1
- procedures to determine if systems level highway plans and other federally financed projects are in conformity with air quality plans

MODERATE AND ABOVE AREAS

- requirement for controls for all VOC sources identified in EPA control technology guidelines
- case by case control technology determinations for all major VOC and NOx sources not covered by a EPA control technology guideline
- requirement for controls for all major (100 tons per year) VOC sources
- requirement for controls for all major (100 tons per year) NOx sources
- offset ratio for addition of new pollution of 1.15 to 1
- requirement for vapor recovery controls for emissions from filling vehicles with gasoline (stage II)
- basic motor vehicle emissions inspection and maintenance program

SERIOUS AND ABOVE AREAS

- requirement for controls for all major (50 tons per year) VOC sources
- requirement for controls for all major (50 tons per year) NOx sources
- offset ratio for addition of new pollution of 1.2 to 1

- enhanced monitoring (source emissions) program
- correct existing motor vehicle emissions inspection and maintenance (I&M) program
- enhanced motor vehicle emissions I&M program
- clean fuel fleet vehicle program
- oxygenated fuels program

SEVERE AND ABOVE AREAS

- requirement for controls for all major (25 tons per year) VOC sources
- requirement for controls for all major (25 tons per year) NOx sources
- offset ratio for addition of new pollution of 1.3 to 1
- requirement for major sources to pay a penalty fee if area does not attain air quality standard by attainment date
- transportation control strategies and measures to offset emissions growth from VMT.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the proposal.

As provided in the public participation procedures of the State Air Pollution Control Board, the Department included, in the Notice of Intended Regulatory Action, a description of the Department's alternatives and a request for comments on other alternatives and the costs and benefits of the Department's alternatives or any other alternatives that the commenters provided.

Following the above, alternatives to the proposal were considered by the Department. The Department determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the proposal. The alternatives considered by the Department, along with the reasoning by which the Department has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulatory action: to allow Virginia to meet its obligation to implement control measures in areas designated as nonattainment under the 8-hour ozone standard and to implement sufficient contingency measures as necessary to attain and maintain compliance with the standard within the maintenance areas, thus protecting public health and welfare.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it would be contrary to the requirements of the Clean Air Act. This alternative included consideration of a cap and trade program. As explained above, control measures contained in SIPs usually fall into two categories: those mandated by the Act or federal government and those selected at the discretion of the state. This regulatory action is being initiated to meet a specific requirement of the Clean Air Act, where the state does not have discretion. Furthermore, because of the complexity of federal guidance and the stringency of federal oversight on emissions trading, the development of a cap-and-trade program would take years longer to develop and implement than will the regulations, with VOC emissions remaining unreduced in the meantime. Finally, while cap and trade programs are fairly easy to implement for larger stationary sources, application of such programs to smaller sources poses unique challenges requiring even more resources and time to establish and implement. Finally, unlike the current national acid rain and NOx

trading programs, the state would not have the assistance of EPA in the implementation and would have to summon up the resources to implement and maintain the program on its own.

3. Take no action to amend the regulations and continue to operate under the existing regulatory program. This option is not being selected because it would allow the current emissions levels to be maintained and possibly increase, to the detriment of public health and welfare. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards--that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry.

Regulatory Flexibility Analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: (1) the establishment of less stringent compliance or reporting requirements; (2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) the consolidation or simplification of compliance or reporting requirements; (4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposal; and (5) the exemption of small businesses from all or any part of the requirements contained in the proposal.

An analysis of the proposal was completed for alternative regulatory methods that will minimize the adverse impact on small businesses without compromising health, safety, environmental and economic welfare.

1. Less stringent compliance requirements such as seasonal compliance will compromise the effectiveness of the standards. Sales reporting requirements for products containing perchlorethylene and and methylene chloride that are subject to Chapter 45, Articles 3 and 4 for consumer products may be changed to a less stringent 5-year recordkeeping requirement without compromising the effectiveness of the applicable standards. Sales reporting requirements for architectural coating products subject to Chapter 45, Article 5 may be removed without compromising the effectiveness of the applicable standards. Compromising effectiveness of the standards will compromise public health, safety, environmental and economic welfare.

2. A less stringent compliance schedule might be possible for a standard applicable to an individual product category without compromising the effectiveness of the article if there is no existing product that will meet the standard, a reasonable time period is proposed for development and testing of a complaint product and the contribution of that individual product category to the emissions reductions creditable by EPA for that article can be demonstrated to be insignificant. So far, no such demonstrations have been made. In all other cases, less stringent compliance schedules for individual product category standards will compromise public health, safety, environmental and economic welfare. Delay of the compliance schedules for individual articles will compromise public health, safety, environmental and economic welfare.

3. Consolidation of compliance or reporting requirements beyond those in paragraph 1 will compromise health, safety, environmental, and economic welfare.

4. Substitution of performance standards for operational or design standards in this proposal will compromise public health, safety, environmental, and economic welfare.

5. Since small businesses make up the majority of facilities subject to the proposals, exemption of small businesses as a class from any or all parts of the regulations will compromise public health, safety, environmental, and economic welfare. An exemption might be adopted for an individual product category that affects small business if there is no existing product that will meet the proposed standard and the contribution of that individual product category to the required emissions reductions can be demonstrated to be insignificant.

Public comment

Please summarize all public comment received during the comment period following the publication of the NOIRA, and provide the agency response. If no public comment was received, please so indicate.

Commenter	Comment	Agency response
Joseph Yost, Consumer Specialty Products Association (CSPA).	1. Suspend the intended regulatory action in view of EPA's intention to develop a national consumer products regulation.	EPA's proposed action does not ensure that the necessary emissions reduction credit is assigned to Virginia within the appropriate timeframe to meet SIP requirements and the EPA action may not comply with Virginia law. No change has been made in the proposed regulation based upon this comment.
Joseph Yost, CSPA.	2. If state-specific rulemaking is necessary, adopt the OTC model rule for consumer products. Interstate commerce will be impaired by the promulgation of different (and potentially conflicting) state-specific consumer products requirements.	Some state-specific requirements are necessary to make the provisions of the model rule conform to the requirements of Virginia law. No change has been made in the proposed regulation based upon this comment.
Joseph Yost, CSPA.	3. If state-specific rulemaking is necessary, the department should establish a compliance date no earlier than January 1, 2009 to allow sufficient time for manufacturers to reformulate consumer products.	This comment is acceptable and appropriate changes reflecting the intent of the comment have been made in this proposal.
Joseph Yost, CSPA.	4. A narrowly-tailored technical revision to the consumer product ACP provisions is necessary to ensure that a mismatched CARB ACP product list does not impede approval of a Virginia ACP based upon that CARB ACP decision.	This comment is acceptable and appropriate changes reflecting the intent of the comment have been made in this proposal.
Joseph Yost, CSPA.	5. Inclusion of several provisions restricting the use of chemical compounds other than VOC in the consumer products regulation does nothing to prevent ozone formation and should be removed.	This comment is acceptable and appropriate changes reflecting the intent of the comment have been made in this proposal.
Joseph Yost, CSPA.	6. CSPA participation in the regulatory process is desired.	There was insufficient interest expressed by stakeholders in convening an advisory group. No change has been made in the proposed regulation based upon this comment.

<p>Frances Wu, Personal Care Products Council (PCPC).</p>	<p>7. Suspend the intended regulatory action in view of EPA's intention to develop a national consumer products regulation.</p>	<p>See the response to comment 1 above. No change has been made in the proposed regulation based upon this comment.</p>
<p>Gerald Connolly, Fairfax County Board of Supervisors.</p>	<p>8. The Board of Supervisors supports the implementation of consumer and commercial product regulations, which will reduce VOC emissions and will help allow the non-attainment area, of which Fairfax is a part, to meet the 8-hour ozone standard.</p>	<p>The Department appreciates the support of efforts to reduce emissions and improve Virginia's air quality. No change has been made in the proposed regulation based upon this comment.</p>
<p>Heidi McAuliffe, National Paint and Coatings Association (NPCA).</p>	<p>9. In light of EPA's serious and diligent effort to keep a proposed federal regulation for consumer and commercial products on schedule, the Department should wait before initiating any formal rulemaking procedures and allow EPA to move forward with its rulemaking.</p>	<p>See the response to comment 1 above. No change has been made in the proposed regulation based upon this comment.</p>
<p>Heidi McAuliffe, NPCA.</p>	<p>10. NPCA believes the Department's effort to promulgate a regulation for Industrial Adhesives and Sealants is misguided and will not result in environmental benefits to Virginia. EPA has adopted a MON/MACT for Industrial Surface Coatings Manufacturers. Adopting VOC controls for this source category is not logical at this point in time and will only further burden adhesives manufacturers without providing any additional air quality benefits. The Department should not move forward to promulgate such a regulation.</p>	<p>See the response to comment 1 above. No change has been made in the proposed regulation based upon this comment.</p>

Family impact

Please provide an assessment of the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: (1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; (2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; (3) strengthen or erode the marital commitment; and (4) increase or decrease disposable family income.

It is anticipated that the proposal will decrease disposable family income for fewer than 250 families in northern Virginia. Other adverse effects on families should be almost negligible as costs are spread among consumers and companies nationwide. However, there will be positive indirect health impacts for as many as 2 million individuals and families in the northern Virginia area and the proposal will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems in that area and surrounding areas.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
Chapter 20, Section 21.	N/A.	Documents incorporated by reference. Contains a list of documents previously incorporated into the regulations.	Adds new certification and test procedures to support the new regulatory requirements. Necessary so that the regulated community can find the procedures that they need to demonstrate compliance requirements.

New section number	New requirement	Rationale for new requirement
Chapter 45, Part I	Special Provisions.	N/A.
10	Applicability. Specifies special provisions are generally applicable to products and owners subject to standards or other provisions in each article. It also excludes some provisions of Chapters 20 and 40 from applicability unless specified as applicable in the individual articles.	Necessary so that owners can identify which provisions of the regulations other than those in each article are applicable to them.
20	Compliance. Specifies that owners and products must comply with certain state and federal provisions for testing, monitoring, reporting and recordkeeping, minimizing emissions and must comply with provisions of applicable articles or be in violation.	Necessary so that owners know where to look in order to comply with testing, monitoring and other compliance provisions of the chapter.
30	Emission testing. Specifies how emissions testing must be conducted and reported, when it is required, what alternatives are permissible and what testing facilities must be provided by the owner.	Necessary so that owners know explicitly what testing responsibilities they have.
40	Monitoring. Specifies how emissions monitoring must be conducted and reported, when it is required, what alternatives are permissible and what monitoring must be provided by the owner.	Necessary so that owners know explicitly what monitoring responsibilities they have.

50	Notification, records and reporting. Specifies certain minimal notifications, reports, and recordkeeping requirements that are generally applicable to owners.	Necessary so that owners know explicitly what recordkeeping and reporting responsibilities they have.
Chapter 45, Part II	Emission Standards [for]:	N/A.
Article 1	Portable Fuel Containers Manufactured before January 1, 2009.	N/A.
60	Applicability. Specifies that portable fuel container products manufactured before January 1, 2009, and owners that manufacture, distribute and sell such products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas, are subject to the provisions of Article 1.	Necessary so that owners know if they are subject to the provisions of this regulation and are able to identify which of their products and operations might be subject to standards under this article.
70	Exemptions. Specifies certain portable fuel container products, characteristics, uses and areas that are exempt from the provisions of Article 1.	Necessary so that owners can figure out which of their products and operations are subject to standards under this article, and which are not.
80	Definitions. Defines and describes portable fuel container product types, product characteristics, persons, operations, authorities, documents and other terms necessary to administer the provisions of Article 1.	Necessary so that owners can identify with certainty those products, persons and operations that are subject to standards and other provisions of the article.
90	Standard for volatile organic compounds. Lists the portable fuel container product categories and the design and performance standards applicable to those products manufactured before January 1, 2009. Also prohibits the manufacture, distribution and sale of noncompliant products and provides criteria for sell-through of products manufactured earlier than January 1, 2009.	Necessary so that owners know which design and performance criteria must be met so that only compliant products are manufactured, distributed within the Northern Virginia area, and offered for sale there.
100	Administrative requirements. Specifies product labeling requirements for portable fuel container products manufactured earlier than January 1, 2009.	Necessary so that Department personnel can easily determine which products are subject to standards under Article 1 and which of those that are subject, are compliant.
110	Compliance. Specifies which of the special provisions in Part I of Chapter 45, and which other regulations not specified in Part I as generally applicable, apply to persons and products subject to Article 1.	Necessary so that owners can easily identify which other provisions of the regulations outside of Article 1 apply to their products and operations.
120	Compliance schedules. Specifies the	Necessary so that owners know when the design and

	dates by which all portable fuel container products and operations subject to Article 1 must comply with the design and performance standards. These compliance dates are not changed from the compliance dates required under Chapter 40, Article 42 for portable fuel containers. Also contains waiver requirements in case there are some owners that cannot comply by the deadlines specified.	performance standards and other requirements are effective for their products in the areas specified.
130	Test methods and procedures. Specifies the test methods that must be used to determine compliance with the standards. Also allows certain alternative methods to be used for testing if approved by the board.	Necessary so that owners can find the proper test methods and use them to demonstrate whether their products are compliant or not.
140	Monitoring. Specifies that the special monitoring provisions of Chapter 45, Part I do not apply to portable fuel containers subject to this article.	Necessary so that owners don't try to apply general monitoring requirements that are not appropriate for this product type.
150	Notification, records and reporting. Specifies which recordkeeping and reporting special provisions of Chapter 45, Part I apply and which do not.	Necessary so that owners apply only those general recordkeeping and reporting requirements that are appropriate for this product type.
Chapter 45, Part II	Emission Standards [for]:	N/A.
Article 2	Portable Fuel Containers Manufactured on or after January 1, 2009.	N/A.
160	Applicability. Specifies that portable fuel container products manufactured on and after January 1, 2009, and owners that manufacture, distribute and sell such products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas, are subject to the provisions of Article 2.	Necessary so that owners know if they are subject to the provisions of this regulation and are able to identify which of their products and operations might be subject to standards under this article.
170	Exemptions. Specifies certain portable fuel container products, characteristics, uses and areas that are exempt from the provisions of Article 2.	Necessary so that owners can figure out which of their products and operations are subject to standards under this article, and which are not.
180	Definitions. Defines and describes portable fuel container product types, product characteristics, persons, operations, authorities, documents and other terms necessary to administer the provisions of Article 2.	Necessary so that owners can identify with certainty those products, persons and operations that are subject to standards and other provisions of the article.
190	Standard for volatile organic compounds. Lists the portable fuel	Necessary so that owners know which design and performance criteria must be met so that only

	<p>container product categories and the labeling, design and performance standards applicable to those products manufactured on and after January 1, 2009. Also prohibits the manufacture, distribution and sale of noncompliant products.</p>	<p>compliant products are manufactured, distributed within the Northern Virginia area, and offered for sale there.</p>
200	<p>Certification procedures. Specifies the application requirements, review requirements and approval procedures necessary to administer the certification program for portable fuel container products manufactured on and after January 1, 2009. Also specifies how CARB-approved products may become board approved with little additional work.</p>	<p>Necessary so that owners know how to get their complaint products certified by the board.</p>
210	<p>Innovative products. Specifies a procedure and application requirements for exempting certain innovative products from the operation and design standards applicable to other portable fuel container products.</p>	<p>Necessary so that technology-based designs that will achieve equivalent emissions reductions may be manufactured, distributed and sold.</p>
220	<p>Administrative requirements. Specifies product labeling requirements for portable fuel container products manufactured on and after than January 1, 2009.</p>	<p>Necessary so that Department personnel can easily determine which products are subject to standards under Article 2 and which of those that are subject to the standards, are compliant.</p>
230	<p>Compliance. Specifies which of the special provisions in Part I of Chapter 45, and which other regulations not specified in Part I as generally applicable, apply to persons and products subject to Article 2.</p>	<p>Necessary so that owners can easily identify which other provisions of the regulations outside of Article 2 apply to their products and operations.</p>
240	<p>Compliance schedules. Specifies that all portable fuel container products and operations subject to Article 2 must comply with the certification, labeling, design and performance standards on and after January 1, 2009. Also contains waiver requirements in case there are some owners that cannot comply by the deadlines specified.</p>	<p>Necessary so that owners know when the design and performance standards are effective for their products and operations.</p>
250	<p>Test methods and procedures. Specifies the new test methods that must be used to determine compliance with the standards. Also allows certain alternative methods to be used for testing if approved by the board.</p>	<p>Necessary so that owners can find the proper test methods and use them to demonstrate whether their products are compliant or not.</p>
260	<p>Monitoring. Specifies that the special</p>	<p>Necessary so that owners don't try to apply general</p>

	monitoring provisions of Chapter 45, Part I do not apply to portable fuel containers subject to this article.	monitoring requirements that are not appropriate for this product type.
270	Notification, records and reporting. Specifies which recordkeeping and reporting special provisions of Chapter 45, Part I apply and which do not.	Necessary so that owners apply only those general recordkeeping and reporting requirements that are appropriate for this product type.
Chapter 45, Part II	Emission Standards [for]:	N/A.
Article 3	Consumer Products Manufactured before January 1, 2009.	N/A.
280	Applicability. Specifies that consumer products manufactured before January 1, 2009, and owners that manufacture, distribute and sell such products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas, are subject to the provisions of Article 3.	Necessary so that owners know if they are subject to the provisions of this regulation and are able to identify which of their products and operations might be subject to standards under this article.
290	Exemptions. Specifies certain consumer products, characteristics, uses and areas that are exempt from the provisions of Article 3. Also contains waiver requirements in case there are some owners that cannot comply with the standards by the deadlines specified.	Necessary so that owners can figure out which of their products and operations are subject to standards under this article, and which are not.
300	Definitions. Defines and describes consumer product types, product characteristics, persons, operations, authorities, documents and other terms necessary to administer the provisions of Article 3.	Necessary so that owners can identify with certainty those products, persons and operations that are subject to standards and other provisions of the article.
310	Standard for volatile organic compounds. Lists the consumer product categories and the VOC content standards applicable to those products manufactured before January 1, 2009. Also prohibits the manufacture, distribution and sale of noncompliant products and provides criteria for sell-through of products manufactured earlier than January 1, 2009.	Necessary so that owners know which VOC content criteria must be met so that only compliant products are manufactured, distributed within the Northern Virginia area, and offered for sale there.
320	Alternative control plan (ACP) for consumer products. Specifies application and review procedures for an alternate compliance procedure for manufacturers. Allows manufacturers to average their VOC emissions from compliant products with VOC content below the standard and VOC emissions from noncompliant products with VOC	Necessary to provide owners with the needed operating flexibility so that certain products without compliant alternatives can continue to be manufactured and sold, while protecting the overall emissions reductions required by the article.

	content above the standard, based upon sales.	
330	Innovative products. Specifies the application and review procedures for another alternate compliance procedure for manufacturers. Manufacturers can substitute design standards with equivalent VOC emissions for the applicable VOC content standards.	Necessary to provide owners with the needed operating flexibility so that certain products without compliant alternatives can continue to be manufactured and sold, while protecting the overall emissions reductions required by the article.
340	Administrative requirements. Specifies special aerosol and date-of-manufacture product labeling requirements for consumer products manufactured earlier than January 1, 2009.	Necessary so that Department personnel can easily determine which products are subject to standards under Article 3 so that compliance of those products can be determined.
350	Compliance. Specifies which of the special provisions in Part I of Chapter 45, and which other regulations not specified in Part I as generally applicable, apply to persons and products subject to Article 3.	Necessary so that owners can easily identify which other provisions of the regulations outside of Article 3 apply to their products and operations.
360	Compliance schedules. Specifies the dates by which consumer products that are subject to Article 3 must comply with the VOC standards and other requirements. These compliance dates are not changed from the compliance dates required under Chapter 40, Article 50 for consumer products.	Necessary so that owners know when the VOC standards and other requirements are effective for their products in the areas specified.
370	Test methods and procedures. Specifies the test methods that must be used to determine compliance with the standards.	Necessary so that owners can find the proper test methods and use them to demonstrate whether their products are compliant or not.
380	Monitoring. Specifies that the special monitoring provisions of Chapter 45, Part I apply to consumer products subject to this article.	Necessary so that owners know to apply the general monitoring requirements to this product type.
390	Notification, records and reporting. Specifies which recordkeeping and reporting special provisions of Chapter 45, Part I apply and which do not. Also requires reporting of product information upon request of the board.	Necessary so that owners know they are responsible to provide product information and sales information for compliance purposes when asked.
Chapter 45, Part II	Emission Standards [for]:	N/A.
Article 4	Consumer Products Manufactured on or after January 1, 2009.	N/A.
400	Applicability. Specifies that consumer products manufactured on or after January 1, 2009, and owners that manufacture, distribute and sell	Necessary so that owners know if they are subject to the provisions of this regulation and are able to identify which of their products and operations might be subject to standards under this article.

	such products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas, are subject to the provisions of Article 4.	
410	Exemptions. Specifies certain consumer products, characteristics, uses and areas that are exempt from the provisions of Article 4. Also contains waiver requirements in case there are some owners that cannot comply with the standards by the deadlines specified.	Necessary so that owners can figure out which of their products and operations are subject to standards under this article, and which are not.
420	Definitions. Defines and describes consumer product types, product characteristics, persons, operations, authorities, documents and other terms necessary to administer the provisions of Article 4.	Necessary so that owners can identify with certainty those products, persons and operations that are subject to standards and other provisions of the article.
430	Standard for volatile organic compounds. Lists the consumer product categories and the VOC content standards applicable to those products manufactured on and after January 1, 2009. Also prohibits the manufacture, distribution and sale of noncompliant products.	Necessary so that owners know which VOC content criteria must be met so that only compliant products are manufactured, distributed within the Northern Virginia area, and offered for sale there.
440	Alternative control plan (ACP) for consumer products. Specifies application and review procedures for an alternate compliance procedure for manufacturers. Allows manufacturers to average their VOC emissions from compliant products with VOC content below the standard and VOC emissions from noncompliant products with VOC content above the standard, based upon sales.	Necessary to provide owners with the needed operating flexibility so that certain products without compliant alternatives can continue to be manufactured and sold, while protecting the overall emissions reductions required by the article.
450	Innovative products. Specifies the application and review procedures for another alternate compliance procedure for manufacturers. Manufacturers can substitute design standards with equivalent VOC emissions for the applicable VOC content standards.	Necessary to provide owners with the needed operating flexibility so that certain products without compliant alternatives can continue to be manufactured and sold, while protecting the overall emissions reductions required by the article.
460	Administrative requirements. Specifies date-of-manufacture product labeling requirements for consumer products manufactured on and later than January 1, 2009. Also contains additional labeling requirements for several product categories.	Necessary so that Department personnel can easily determine which products are subject to standards under Article 4 so that compliance of those products can be determined.
470	Compliance. Specifies which of the	Necessary so that owners can easily identify which

	special provisions in Part I of Chapter 45, and which other regulations not specified in Part I as generally applicable, apply to persons and products subject to Article 4.	other provisions of the regulations outside of Article 4 apply to their products and operations.
480	Compliance schedules. Specifies that those consumer products subject to the provisions of Article 4 must comply with the VOC content standards and other requirements no later than January 1, 2009.	Necessary so that owners know when the design and performance standards are effective for their products and operations.
490	Test methods and procedures. Specifies the test methods that must be used to determine compliance with the standards.	Necessary so that owners can find the proper test methods and use them to demonstrate whether their products are compliant or not.
500	Monitoring. Specifies that the special monitoring provisions of Chapter 45, Part I apply to consumer products subject to this article.	Necessary so that owners know to apply the general monitoring requirements to this product type.
510	Notification, records and reporting. Specifies which recordkeeping and reporting special provisions of Chapter 45, Part I apply and which do not. Also requires reporting of product information upon request of the board.	Necessary so that owners know they are responsible to provide product information and sales information for compliance purposes when asked.
Chapter 45, Part II	Emission Standards [for]:	N/A.
Article 5	Architectural and Industrial Maintenance Coatings.	N/A.
520	Applicability. Specifies that architectural coating products, and owners that manufacture, distribute, sell and apply such products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas, are subject to the provisions of Article 5.	Necessary so that owners know if they are subject to the provisions of this regulation and are able to identify which of their coating products and operations might be subject to standards under this article.
530	Exemptions. Specifies certain architectural coating products, package sizes and areas that are exempt from the provisions of Article 5.	Necessary so that owners can figure out which of their coating products and operations are subject to standards under this article, and which are not.
540	Definitions. Defines and describes architectural coating product types, product characteristics, persons, operations, authorities, documents and other terms necessary to administer the provisions of Article 5.	Necessary so that owners can identify with certainty those products, persons and operations that are subject to standards and other provisions of the article.
550	Standard for volatile organic compounds. Lists the architectural coating product categories and the VOC content standards applicable to those products, with default VOC	Necessary so that owners know which VOC content criteria must be met so that only compliant coating products are manufactured, distributed within the Northern Virginia area, offered for sale and used there.

	standards for those categories not listed. Also prohibits the manufacture, distribution, sale and application of noncompliant coating products.	
560	Administrative requirements. Specifies that each architectural coating product must be labeled with the date of manufacture, any applicable thinning recommendations, and the coating VOC content. Certain descriptive statements must be included for several of the coating product categories.	Necessary so that Department personnel can easily determine which coating products are subject to standards under Article 5 so that compliance of those products can be determined.
570	Compliance. Specifies which of the special provisions in Part I of Chapter 45, and which other regulations not specified in Part I as generally applicable, apply to owners and architectural coating products.	Necessary so that owners can easily identify which other provisions of the regulations outside of Article 4 apply to their coating products and operations.
580	Compliance schedules. Specifies the dates by which architectural coating products must comply with the VOC standards and other requirements. These compliance dates are not changed from the compliance dates required under Chapter 40, Article 49 for Architectural and Industrial Maintenance Coating products.	Necessary so that owners know when the VOC standards and other requirements are effective for their coating products within the areas specified.
590	Test methods and procedures. Specifies the test methods that must be used to determine compliance with the standards.	Necessary so that owners can find the proper test methods and use them to demonstrate whether their products are compliant or not.
600	Monitoring. Specifies that the special monitoring provisions of Chapter 45, Part I apply to architectural coating products subject to this article.	Necessary so that owners know to apply the general monitoring requirements to this product type.
610	Notification, records and reporting. Specifies which recordkeeping and reporting special provisions of Chapter 45, Part I apply to architectural coating products and which do not.	Necessary so that owners apply only those general recordkeeping and reporting requirements that are appropriate for this product type.
Chapter 45, Part II	Emission Standards [for]:	N/A.
Article 6	Adhesives and Sealants.	N/A.
620	Applicability. Specifies that owners that manufacture, distribute, sell, apply and solicit the use of adhesive and sealant products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas are subject to the provisions of Article 6.	Necessary so that owners know if they are subject to the provisions of this regulation and are able to identify which of their operations might be subject to standards under this article.
630	Exemptions. Specifies that certain	Necessary so that owners can figure out which of

	adhesive and sealant products, uses, package sizes, VOC content levels, and low usage operations are exempt from the provisions of Article 6. Allows the sale of non-compliant products to consumers that use add-on control technology to meet emissions limits. Also provides that adhesive and sealants that are subject to VOC standards under other regulations are exempt.	their adhesive and sealant products and operations are subject to standards under this article, and which are not.
640	Definitions. Defines and describes adhesive and sealant product types, product characteristics, persons, operations, authorities, documents and other terms necessary to administer the provisions of Article 6.	Necessary so that owners can identify with certainty those products, persons and operations that are subject to standards and other provisions of the article.
650	Standard for volatile organic compounds. Lists the adhesive and sealant product categories and the VOC content standards applicable to those product categories. Also specifies surface preparation, cleanup and waste requirements and prohibits the manufacture, distribution, sale, application and solicitation for the use of noncompliant products and any noncompliant uses for adhesives and sealants (such as improper storage of waste).	Necessary so that owners know which VOC content criteria must be met and what the performance standards are for uses of adhesive and sealant products, so that only compliant coating products are manufactured, distributed within the Northern Virginia area, offered for sale and used properly there.
660	Control technology guidelines. Specifies that efficient add-on control technology may be used by consumers and contractors on site to control VOC emissions from adhesive and sealant products that would otherwise be considered noncompliant. Specifies the necessary efficiency requirements and performance and monitoring requirements for the add-on control technology.	Necessary to allow consumers to have the operational flexibility to use noncompliant products under circumstances that achieve the required emissions reductions by other means.
670	Standard for visible emissions. Applies the existing source visible emissions standard of Chapter 40 to adhesive and sealant operations that are subject to Chapter 45, Article 6.	Necessary so that owners do not conduct any adhesive and sealant operations in such a manner so as to produce unnecessary visible emissions.
680	Administrative requirements. Specifies that each adhesive and sealant product must be labeled with any applicable thinning recommendations, the coating VOC content as supplied, and the VOC content as applied.	Necessary so that Department personnel can easily determine whether each adhesive and sealant product is compliant.
690	Compliance. Specifies that the	Necessary so that owners know where to look in

	special compliance provisions in Part I of Chapter 45 apply to owners and their adhesive and sealant products.	order to comply with general compliance provisions of Chapter 45.
700	Compliance schedules. Specifies that those adhesives and sealant products subject to the provisions of Article 6 must comply with the VOC content standards and other requirements no later than January 1, 2009.	Necessary so that owners know when the VOC content and applicable performance standards are effective for their products and operations.
710	Test methods and procedures. Specifies that the testing special provisions of Chapter 45, Part I and the listed test methods must be used to determine compliance with the standards.	Necessary so that owners can find the proper test methods and use them to demonstrate whether their products and operations are compliant or not.
720	Monitoring. Specifies that the special monitoring provisions of Chapter 45, Part I apply to consumer products subject to this article.	Necessary so that owners know to apply the general monitoring requirements to this product type.
730	Notification, records and reporting. Specifies that the recordkeeping and reporting special provisions of Chapter 45, Part I apply and requires that records of certain information on the adhesive and sealant products, operations and add-on control technologies must be kept for five years and made available to the board upon request.	Necessary so that owners know they are responsible to keep records on products and controls and to provide that information as necessary to demonstrate their compliance with the standards and requirements of the article or their exemption status.
740	Registration. Requires that owners that use add-on control technology to comply with the requirements of the article to register with the board.	Necessary so that the board is aware of who must keep and provide compliance records for add-on control technologies, so that the board can confirm that noncompliant products may be sold to them.
750	Facility and control equipment maintenance and malfunction. Requires that regulatory maintenance and malfunction requirements apply.	Necessary because improper use, poor maintenance or malfunction of add-on control technology will result in excess emissions. Required because the special provisions of Chapter 45, Part I specified that the maintenance and malfunction provisions of Chapter 20 did not apply unless otherwise stated in the Article.
Chapter 45, Part II	Emission Standards [for]:	N/A.
Article 7	Asphalt Paving Operations.	N/A.
760	Applicability. Specifies that owners that conduct any of the operations normally associated with asphalt paving (mixing, storing or applying liquefied asphalt) within the Northern Virginia and Fredericksburg VOC Emissions Control Areas, are subject to the provisions of Article 7.	Necessary so that owners know whether or not they are subject to the provisions of this regulation and are able to identify which of their operations might be subject to standards under this article.
770	Definitions. Defines and describes certain asphalt paving product types, product characteristics, and paving	Necessary so that owners can identify with certainty those products, persons and operations that are subject to standards and other provisions of the

	operations necessary to administer the provisions of Article 7.	article.
780	Standard for volatile organic compounds. Prohibits the use of any liquefied asphalt product for paving operations unless the product is an emulsified asphalt product, but permits the use of cutback asphalt outside of the ozone season and for certain other uses. Also specifies that the regulation is not intended to apply to the mixing and use of asphaltic concrete. Some averaging of VOC contents is permitted.	Necessary so that owners know when the mixing, storage and use of cutback asphalt is prohibited and when it is permitted within the Northern Virginia area.
790	Standard for visible emissions. Applies the existing source visible emissions standard of Chapter 40 to paving operations.	Necessary so that owners do not conduct any paving operations in such a manner so as to produce unnecessary visible emissions.
800	Standard for fugitive dust/emissions. Applies the existing source fugitive dust and emissions standard to paving operations.	Necessary so that owners do not conduct any paving operations in such a manner so as to produce unnecessary fugitive dust or emissions.
810	Standard for odor. Applies the existing source odor standard to paving operations.	Necessary so that owners do not conduct any paving operations in such a manner to produce odorous emissions that might reasonably be avoided.
820	Compliance. Specifies that the special provisions in Part I of Chapter 45 apply to owners that conduct paving operations.	Necessary so that owners know that the special compliance provisions apply where applicable.
830	Test methods and procedures. Specifies that the special provisions in Part I of Chapter 45 apply to owners that conduct paving operations.	Necessary so that owners know that the special testing provisions apply where applicable.
840	Monitoring. Specifies that the special monitoring provisions of Chapter 45, Part I do not apply to owners that conduct paving operations.	Necessary so that owners know not to apply the general monitoring requirements to this product type.
850	Notification, records and reporting. Specifies that the special provisions in Part I of Chapter 45 apply to owners that conduct paving operations.	Necessary so that owners know that the special recordkeeping and reporting provisions apply where applicable.

Periodic review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than four years after the proposed regulation is expected to be effective.

The Department will initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated within four years after its effective date.

The specific and measurable goals the proposed regulation amendments are intended to achieve are as follows:

1. To protect public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. To ensure that owners comply with air pollution emission limits and control technology requirements in order to control levels of volatile organic compound emissions being emitted into the ambient air.
3. To prohibit emissions which would contribute to nonattainment of the national air quality standards or interference with maintenance of the standards.

Clarity

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The Department, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

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